

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VA
ALEXANDRIA DIVISION

IN RE:
WALTER J. EIDSON, JR. AKA JAY
EIDSON

BCN#: 08-13416SSM
Chapter: 7

Debtor(s)

ASTORIA FEDERAL SAVINGS BANK

or present noteholder,

Movant/Secured Creditor,

v.

WALTER J. EIDSON, JR. AKA JAY EIDSON

Debtor(s)

and

H. JASON GOLD

Trustee

Respondents

MOTION FOR ORDER GRANTING
RELIEF FROM AUTOMATIC STAY AND
NOTICE OF MOTION AND HEARING

COMES NOW ASTORIA FEDERAL SAVINGS BANK its assignees and/or successors in interest, (Movant herein), by Counsel, and moves this Court for an Order Granting it Relief from the Automatic Stay of 11 U.S.C. Section 362 (a), and in support thereof states as follows:

1. That this Court has Jurisdiction over this contested matter pursuant to 28 U.S.C. Sections 157 and 1334, 11 U.S.C. 362(a), and Federal Rule of Bankruptcy Procedure 9014, and Local Bankruptcy Rule 9014-1, that this matter is a core proceeding.
2. That the above named Debtor(s) filed a Chapter 13 Petition in Bankruptcy with this Court on June 13, 2008 and converted to a Chapter 7 Petition on September 24, 2008.
3. That H. JASON GOLD, has been appointed by this Court as the Chapter 7 Trustee in this instant Bankruptcy proceeding and is hereby made a party to this proceeding.

Trenita Jackson-Stewart, VSB# 48412
ASTORIA FEDERAL SAVINGS BANK
SHAPIRO & BURSON, LLP
236 CLEARFIELD AVENUE, SUITE 215
VIRGINIA BEACH, VA 23462
(757) 687-8777 08-124480V

4. That Movant is the current payee of a promissory note secured by a deed of trust upon a parcel of real property with the address of 3001 N. EDISON ST., Arlington, VA 22207 and more particularly described in the Deed of Trust dated June 30, 1995 and recorded among the land records of the said city/county, as:

THAT CERTAIN PIECE OR PARCEL OF LAND LOCATED AT 3001 NORTH EDISON STREET, LYING AND BEING IN ARLINGTON COUNTY, VIRGINIA, AND KNOWN AS PART OF LOT 6 OF LEELAND SUBDIVISION AND BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF 30TH STREET NORTH WITH THE EASTERLY LINE OF NORTH EDISON STREET; THENCE WITH THE EASTERLY LINE OF NORTH EDISON STREET, NORTH 40 DEGREES 40' 20" WEST 110.0 FEET TO AN IRON PIPE; THENCE LEAVING THE LINE OF NORTH EDISON STREET AND RUNNING THROUGH LOT 6, NORTH 50 DEGREES 39' 55" EAST 171.05 FEET TO A PIPE, SAID POINT BEING COMMON CORNER TO LOT 5 AND LOT 6 IN THE WEST BOUNDARY OF THE THOMAS B. JEWELL ESTATE; THENCE WITH JEWELL BOUNDARY LINE, SAID LINE BEING ALSO THE EASTERLY BOUNDARY LINE OF THE SUBDIVISION OF LEELAND, SOUTH 33 DEGREES 31' EAST 109.29 FEET TO A POINT IN THE NORTHERLY LINE OF 30TH STREET NORTH; THENCE WITH THE NORTHERLY LINE OF 30TH STREET ALONG THE ARC OF A 315.68 FEET RADIUS CURVE (THE CHORD BEARING AND DISTANCE OF WHICH IS SOUTH 52 DEGREES 54' 20" WEST 39.13 FEET) AN ARC DISTANCE OF 39.155 FEET TO A POINT; THENCE SOUTH 49 DEGREES 19' 40" WEST 118.34 FEET TO THE POINT OF BEGINNING CONTAINING 17,795 SQUARE FEET, MORE OR LESS, AS THE SAME IS DULY PLATTED, DEDICATED AND RECORDED AMONG THE LAND RECORDS OF ARLINGTON COUNTY, VIRGINIA, IN DEED BOOK 396 AT PAGE 110.

5. That Movant is informed and believes, and based upon such information and belief, alleges, that title to the subject Property is currently vested in the name of the Debtor(s).

6. The Debtor(s) is/are in default with regard to payments which have become due under the terms of the aforementioned note and deed of trust. The Debtor is due for:

- o 6 monthly payments of \$4,482.54 each which were to be paid directly to Movant;
- o 6 late charges of \$172.38 each which were to be paid directly to Movant.
- o Property Inspection of \$78.25

7. That as of September 30, 2008, the total amount of the indebtedness owed by the Debtor(s) to the Secured Creditor/Movant is approximately \$497,653.65, based on the Secured Creditor's Proof of Claim filed contemporaneously herewith.

8. That Movant has elected to initiate foreclosure proceedings on the subject Property with respect to the subject Deed of Trust, but is prevented by the Automatic Stay from going forward with these proceedings.

9. That Movant is not adequately protected, and absent this Court's Order allowing Movant to proceed with the foreclosure, Movant's security will be significantly jeopardized and/or destroyed.

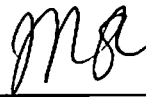
10. That the subject property is not necessary to an effective reorganization of the Debtor(s) estate.

11. That for the reasons stated above, cause exists to terminate the Automatic Stay of 11 U.S.C. § 362(a), pursuant to the provisions of Section 362(d)(1) thereof.

WHEREFORE, your Movant prays that this Court give judgment and enter an Order modifying the Automatic Stay of 11 U.S.C. Section 362 (a) so as to permit Movant and the Trustees under the Deed of Trust to conduct a foreclosure sale of the subject property, to otherwise enforce the lien of its Deed of Trust, to record a Trustee's Deed in execution thereof, and to thereafter take such action as is appropriate to obtain possession of the subject property; and for such further relief as the Court deem just.

Dated: 9-30-08

SHAPIRO & BURSON, LLP
Attorneys for Movant

By: 
Trenita Jackson-Stewart, VSB# 48412
SHAPIRO & BURSON, LLP
236 CLEARFIELD AVENUE, SUITE 215
VIRGINIA BEACH, VA 23462
(757) 687-877708-124480V

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Trustee

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NOTICE OF MOTION AND HEARING

Please take notice:

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not wish the Court to grant the relief sought in the motion, or if you want the Court to consider your views on the motion, then within fifteen (15) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address: Clerk of Court, United States Bankruptcy Court, 200 South Washington Street, Alexandria, Virginia 22314, and serve a copy on the movant. Unless a written response is filed and served within this fifteen day period, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the fifteen day period.

A copy of any written response must be mailed to the following persons:

Trenita Jackson-Stewart, VSB# 48412
SHAPIRO & BURSON, LLP
236 CLEARFIELD AVENUE, SUITE 215
VIRGINIA BEACH, VA 23462

MADELINE A TRAINOR, ESQUIRE
100 N. PITT STREET SUITE 200
ALEXANDRIA, VA 22314-3134

WALTER J. EIDSON, JR.
3001 N. EDISON STREET
Arlington, VA 22207

H. JASON GOLD
7925 JONES BRANCH DRIVE
SUITE 6200
MCLEAN, VA 22102


United States Trustee, Region 4
115 South Union Street, Suite 210
Alexandria, Virginia 22314

In order to oppose this motion, you must also attend the preliminary hearing scheduled to be held on: **November 5, 2008 at 9:30 a.m.** in Courtroom I, United States Bankruptcy Court, 200 South Washington Street, Alexandria, Virginia 22314.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Dated: 9-30-08

ASTORIA FEDERAL SAVINGS BANK
ATTORNEYS FOR THE MOVANT



Trenita Jackson-Stewart, VSB# 48412
SHAPIRO & BURSON, LLP
236 CLEARFIELD AVENUE, SUITE 215
VIRGINIA BEACH, VA 23462
(757) 687-8777 08-124480V
Counsel for ASTORIA FEDERAL SAVINGS BANK


CERTIFICATE OF SERVICE

I certify that I have this 30 day of Sept, 2008, electronically transmitted and/or mailed or hand-delivered a true copy of the Motion for Relief from Automatic Stay and a true copy of the Notice of Motion and Hearing to:

MADELINE A TRAINOR, ESQUIRE
100 N. PITT STREET
SUITE 200
ALEXANDRIA, VA 22314-3134

H. JASON GOLD
7925 JONES BRANCH DRIVE
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MCLEAN, VA 22102

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